

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CATHERINE LYNN MOORE
4136 Crooked Stick Lane
Corona, CA 92883

Registered Nurse License No. 560575

Respondent.

Case No. 2007-60

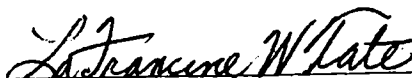
OAH No. L2007010354

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on April 17, 2008.

IT IS SO ORDERED March 17, 2008.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

CATHERINE LYNN MOORE

Registered Nurse License No. RN 560575,

Respondent.

Case No. 2007-60

OAH No. L2007010354

PROPOSED DECISION

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, on October 25, 2007, in Los Angeles.

Gillian E. Friedman, Deputy Attorney General, represented Complainant. Catherine Lynn Moore (Respondent) was present and represented herself.

At the conclusion of the hearing, the record was left open for Respondent to submit additional evidence of mitigation and/or rehabilitation and for Complainant to respond. Respondent did not provide any evidence. The record was therefore closed and the matter submitted on November 16, 2007, after a letter was received from Complainant's counsel (marked as exhibit 7) advising that no such evidence had been received from Respondent and requesting that the record therefore be closed.

FACTUAL FINDINGS

1. On October 22, 1999, the Board of Registered Nursing (Board) issued Registered Nurse License Number 560575 to Respondent. As of the date of the hearing, the license was scheduled to expire on December 28, 2007, unless renewed.

2. Ruth Ann Terry, M.P.H., R.N. (Complainant), brought the First Amended Accusation in her official capacity as the Executive Officer of the Board. It was not established that Respondent submitted a Notice of Defense.

3. (A) On July 9, 2003, in the Superior Court of the State of California, San Luis Obispo County, Respondent was convicted on her plea of nolo contendere to one count of violating Vehicle Code section 23152, subdivision (b) (driving a vehicle with a blood alcohol level of 0.08% or greater), a misdemeanor.

(B) Imposition of sentence was suspended, and Respondent was placed on three years probation, with terms including that she pay fines totaling \$1,570, serve two days in jail, and complete a first offender drunk driver program. Respondent paid her fines, completed community service in lieu of serving time in jail and completed the drunk driver program. However, Respondent was found to have violated probation as a result of her crime described in Factual Finding 4 below. This probation subsequently terminated.

(C) The circumstances surrounding the conviction are that on January 4, 2003, during a routine traffic stop by an officer of the California Highway Patrol, Respondent was found to be under the influence of alcohol.

4. (A) On August 30, 2005, in the Superior Court of the State of California, San Luis Obispo County, Respondent was convicted on her plea of nolo contendere to one count of violating Vehicle Code section 23152, subdivision (b) (driving a vehicle with a blood alcohol level of 0.08% or greater), a misdemeanor.

(B) Imposition of sentence was suspended, and Respondent was placed on three years probation (scheduled to end December 8, 2008), with terms including that she serve 10 days in jail (suspended), complete a second offender drunk driver program (suspended), and pay fines totaling \$1,810 (suspended). As a result of her crime described in Factual Finding 5 below, Respondent was found to have violated probation and was ordered to serve three days in jail (with credit given for time already served).

(C) The circumstances surrounding the conviction are that on May 2, 2005, Respondent was driving a vehicle under the influence of alcohol. It was later determined that Respondent had a blood alcohol level of 0.24 percent when she was driving.

5. (A) On April 4, 2007, in the Superior Court of the State of California, San Luis Obispo County, Respondent was convicted on her plea of nolo contendere to one count of violating Penal Code section 273.5(A) (inflicting corporal injury upon a spouse), a misdemeanor.

(B) Imposition of sentence was suspended, and Respondent was placed on three years supervised probation (scheduled to end May 2, 2010), with terms including that she serve three days in jail (with credit for that time already served), pay fines totaling approximately \$1,300, complete a 52-week batterer's program, perform community service, participate in a drug and alcohol program, and stay away from her ex-husband.

(C) The circumstances surrounding the conviction occurred on April 2, 2007, when Respondent went to the home of her ex-husband and her children to deliver Easter baskets. Respondent had consumed alcohol prior to arriving. Respondent's ex-husband asked her to leave. A dispute ensued. Respondent inflicted a small laceration on her ex-husband's nose when she tried to knock a telephone out of his hands to prevent him from calling the police, and then she quickly left. An officer who went to Respondent's home to investigate found Respondent had alcohol on her breath and was unsteady on her feet.

6. Respondent is a 39-year old divorced woman with two sons. She now is employed as a traveling nurse. Her current assignment is as a surgical nurse at Sutter Delta in Antioch, since July 2007. Her previous assignment was at Sierra Vista Hospital in San Luis Obispo for eight months, until she was terminated due to her April 2007 conviction. Before that, she was a full-time nurse employed by French Hospital in San Luis Obispo for three years. Respondent has been in the Naval Reserve for the past 13 years as a nurse. She has received a commission as a lieutenant and is involved in training other nurses. She has twice been activated into regular service, the last time in 2003.

7. Respondent is an alcoholic. Her illness significantly contributed to the commission of her crimes. Her alcoholism was exacerbated by a stressful divorce and the fact that she has limited rights of contact with her children from that marriage. Drinking was her way of coping with her problems.

8. *Mitigation.* Respondent's three convictions involved relatively minor physical harm to her ex-husband and minor property damage. Respondent has no prior record of discipline with the Board. No evidence indicates that any of Respondent's alcohol-related problems have spilled over into her performance at work.

9. *Rehabilitation.* Respondent presents a mixed picture of rehabilitation as follows:

A. Respondent is currently in compliance with the terms of her two active probations, but she previously violated the terms of the probations from her first two convictions. Respondent's recent record of good behavior must be tempered by the fact that she remains under the coercive effects of the criminal justice system.

B. Respondent's date of sobriety is April 2, 2007, when she was arrested for spousal abuse on her ex-husband. Respondent's mother corroborated that date of sobriety. Respondent candidly admitted that she is an alcoholic and the circumstances underlying her convictions during the hearing, thereby demonstrated an attitude consistent with rehabilitation. Respondent attends approximately one Alcoholics Anonymous meeting per week, which is a condition of probation. Yet, she does not have a sponsor, which is contrary to her having fully embraced this 12-step program. Respondent has only recently started the drug and alcohol problem that is a condition of her probation stemming from her third conviction. Prior drunk driving courses she took as a result of her prior convictions were not successful, in that Respondent continued to drink and commit alcohol-related crimes. Therefore, Respondent has not yet successfully completed an alcohol treatment program. Respondent presented no letters or documents from work indicating that her supervisors are aware of her alcoholism or attesting to her performance at work.

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C. By Respondent's admission, her family situation is a stressor to her alcoholism. Respondent's ex-husband and children still live in the central coast area of California. Respondent has moved to Northern California in order to avoid this stressor. Due to various court orders which make even supervised visits with her children extremely difficult, Respondent has decided to avoid any contact with her ex-husband and to stay away from her children until a later date when it seems appropriate. She is responsible for paying children support, so a large portion of her wages is garnished. Based on the testimony of Respondent and her mother, the relationship between Respondent and her ex-husband has been irreparably damaged. It was not established that Respondent has had any contact with her ex-husband or her children since her most recent arrest.

10. *Costs.* Complainant incurred reasonable costs in the investigation and enforcement of the case in the amount of \$8,055.25.

LEGAL CONCLUSIONS

1. **FIRST CAUSE FOR DISCIPLINE (Conviction of Substantially Related Crimes).** Respondent is subject to discipline pursuant to Business and Professions Code sections 2761, subdivision (f), and 490,¹ in that Respondent has been convicted of crimes substantially related to the qualifications, functions and duties of a licensed registered nurse. California Code of Regulations, title 16, section 1444 generally defines a substantially related conviction to be one that "to a substantial degree . . . evidences the present or potential unfitness . . . to practice in a manner consistent with the public health, safety, or welfare." In this case, Respondent's two drunk driving convictions evidence Respondent's alcoholism, as does her spousal abuse conviction because it involved alcohol as well. Respondent's alcoholism demonstrates her potential unfitness to practice nursing in a safe manner. Therefore, Respondent's convictions are substantially related to the qualifications, functions and duties of a licensed nurse. (Factual Findings 1-7.)

2. **SECOND CAUSE FOR DISCIPLINE (Unprofessional Conduct).** Respondent is subject to discipline pursuant to section 2762, subdivision (b), on the grounds of unprofessional conduct, in that on three occasions she administered to herself alcoholic beverages to an extent and in a manner dangerous or injurious to herself or to the public. More specifically, Respondent posed a threat of harm to herself and other motorists by driving under the influence of alcohol on two different occasions. On the third occasion, Respondent's consumption of alcohol played a part in her infliction of an actual physical injury, albeit minor, on her ex-husband. (Factual Findings 3-7.)

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¹ All further statutory references are to the Business and Professions Code unless otherwise indicated.

3. THIRD CAUSE FOR DISCIPLINE (Unprofessional Conduct). Respondent is subject to discipline pursuant to section 2762, subdivision (c), on the grounds of unprofessional conduct, in that she was convicted of three crimes involving the consumption of alcohol to an extent or in a manner dangerous to herself or other members of the public, for the reasons explained in Legal Conclusion 2. (Factual Findings 3-7.)

4. DISPOSITION. The cause for discipline established in this case against Respondent indicates she has a serious problem with alcohol. Her three convictions demonstrate a concentrated pattern of alcohol abuse and criminal activity over a period of four years. Her last conviction is fairly recent. She remains on probation from two of her convictions. She has violated the terms of two of her probations. Although she completed two prior alcohol programs, she thereafter continued to drink and commit crimes. She has only recently started a new alcohol problem. Thus, Respondent has yet to demonstrate that she has fully embraced any alcohol program she has attended. In addition, she has a fairly recent date of sobriety. She has not fully embraced a 12-step program. Respondent failed to present evidence from work corroborating her testimony that her alcoholism has not invaded her work as a nurse. Respondent's overall rehabilitation picture is mixed. The mitigating factors Respondent established have been considered, most significantly that she has no prior record of Board discipline and that there is no evidence misconduct at work. However, the potential harm done by a licensed nurse while impaired by alcohol is always present and could be catastrophic. Respondent's failure to prove a sufficient level of rehabilitation regarding her alcoholism does not provide a sufficient level of protection against the potential for such harm. Under all of these circumstances, it was not established that placing Respondent on probation would be consistent with protecting the public health, welfare and safety. (Factual Findings 1-9.)

5. COSTS. Section 125.3 provides, in pertinent part, that a licentiate found to have committed a violation of an applicable licensing act shall pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. It was established that Respondent has violated provisions of the Nursing Practice Act and that the Board has incurred reasonable costs in the amount of \$8,055.25. (Factual Finding 10.)

ORDER

Registered Nurse License Number 560575, issued to Respondent Catherine Lynn Moore, is revoked. Respondent shall pay the Board of Registered Nursing costs in the amount of \$8,055.25 pursuant to Business and Professions Code section 125.3.

Dated: January 18, 2008



ERIC SAWYER
Administrative Law Judge
Office of Administrative Hearings

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of the State of California
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
Against:

Case No. 2007-60

12 CATHERINE LYNN MOORE
13 4136 Crooked Stick Lane
Corona, CA 92883

FIRST AMENDED ACCUSATION

14 CATHERINE LYNN MOORE
15 1601 Vineyard Road, #1502,
Roseville, CA 95747

16 Registered Nurse License No. RN 560575

17 Respondent.
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19
20 Complainant alleges:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
23 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
24 Department of Consumer Affairs.

25 2. On or about October 22, 1999, the Board of Registered Nursing issued
26 Registered Nurse License No. RN 560575 to Catherine Lynn Moore (Respondent). The
27 Registered Nursing License was in full force and effect at all times relevant to the charges
28 brought herein and will expire on December 31, 2007, unless renewed.

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1 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
2 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
3 injurious to himself or herself, any other person, or the public or to the extent that such use
4 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
5 license.

6 “(c) Be convicted of a criminal offense involving the prescription, consumption,
7 or self-administration of any of the substances described in subdivisions (a) and (b) of this
8 section, or the possession of, or falsification of a record pertaining to, the substances described in
9 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
10 thereof.

11 8. Section 490 of the Code states:

12 “A board may suspend or revoke a license on the ground that the licensee has
13 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
14 duties of the business or profession for which the license was issued. A conviction within the
15 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
16 contendere. Any action which a board is permitted to take following the establishment of a
17 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
18 been affirmed on appeal, or when an order granting probation is made suspending the imposition
19 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
20 Penal Code.”

21 9. California Code of Regulations, title 16, section 1444, states:

22 “A conviction or act shall be considered to be substantially related to the
23 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
24 present or potential unfitness of a registered nurse to practice in a manner consistent with the
25 public health, safety, or welfare.

26 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
27 request the administrative law judge to direct a licensee found to have committed a violation or
28 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation

1 and enforcement of the case.

2 **FIRST CAUSE FOR DISCIPLINE**

3 (Conviction of Substantially Related Crime)

4 11. Respondent has subjected her license to disciplinary action under sections
5 2761, subdivision (f) and 490 of the Code as defined in the California Code of Regulations, title
6 16, section 1444, in that Respondent was convicted of crimes substantially related to the
7 qualifications, functions and duties of a licensed registered nurse, as follows:

8 a. On or about April 4, 2007, Respondent was convicted on a plea of no
9 contest to one count of violating Penal Code section 273.5(A), a misdemeanor, (inflicting
10 corporal injury upon a spouse or cohabitant) in the Superior Court of the State of California,
11 County of San Luis Obispo, San Luis Obispo Branch, Case No. M000400824, entitled *The*
12 *People of the State of California v. Catherine Lynn Moore*.

13 b. The circumstances surrounding the conviction are that on or about April 2,
14 2007, Respondent was arrested by the City of Arroyo Grande Police Department following a
15 report of an assault by Respondent's ex-husband J.M.. The arresting officer noted that J.M. had a
16 laceration injury on his nose. J.M. reported that Respondent had come to his house to see their
17 children and deliver Easter baskets, but J.M. asked her to leave. When she refused, J.M. called
18 the police and Respondent caused the injury. The arresting office was directed to Respondent's
19 home where she was found to have had alcohol on her breath and she was unsteady on her feet.

20 c. On or about August 26, 2005, Respondent was convicted on a plea of nolo
21 contendere to one count of violating Vehicle Code section 23152(b), a misdemeanor, (driving a
22 vehicle with a blood-alcohol level of 0.08% or greater) in the Superior Court of the State of
23 California, County of San Luis Obispo, San Luis Obispo Branch, Case No. M000372848,
24 entitled *The People of the State of California v. Catherine Lynn Moore*.

25 d. The circumstances surrounding the conviction are that on or about May 2,
26 2005, Respondent was stopped by the Grover Beach Police Department. Based on results of the
27 field sobriety tests, Respondent was determined to be under the influence of alcohol with the
28 Preliminary Alcohol Screening (PAS) test indicating a blood-alcohol level of 0.24 percent.

1 e. On or about July 9, 2003, Respondent was convicted on a plea of nolo
2 contendere to one count of violating Vehicle Code section 23152(b), a misdemeanor, (driving a
3 vehicle with a blood-alcohol level of 0.08% or greater) in the Superior Court of the State of
4 California, County of San Luis Obispo, San Luis Obispo Branch, Case No. M000337312,
5 entitled *The People of the State of California v. Catherine Lynn Moore*.

6 f. The circumstances surrounding the conviction are that on or about January
7 4, 2003, in a routine traffic stop by the California Highway Patrol, Respondent was found to be
8 under the influence of alcohol and subsequently arrested.

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Dangerous Use of Alcohol)

11 12. Respondent is subject to disciplinary action under section 2762,
12 subdivision (b), on the grounds of unprofessional conduct, in that Respondent administered to
13 herself controlled substances or alcoholic beverages to an extent or in a manner dangerous or
14 injurious to herself, to any person or to the public. Complainant refers to, and by this reference
15 hereby incorporates the allegations set forth in paragraph 11 subsections (a) -(f) inclusive, above,
16 as though set forth fully.

17 **THIRD CAUSE FOR DISCIPLINE**

18 (Unprofessional Conduct)

19 13. Respondent is subject to disciplinary action under section 2762,
20 subdivision (c), on the grounds of unprofessional conduct, in that Respondent was convicted of a
21 crime involving the consumption of alcohol. Complainant refers to, and by this reference hereby
22 incorporates the allegations set forth in paragraph 11 subsections (a) -(f) inclusive, above, as
23 though set forth fully.

24 **PRAYER**

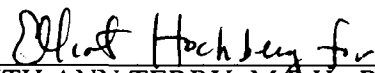
25 **WHEREFORE**, Complainant requests that a hearing be held on the matters
26 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

27 1. Revoking or suspending Registered Nurse License No. RN 560575, issued
28 to Catherine Lynn Moore;

2. Ordering Catherine Lynn Moore to pay the Board of Registered Nursing
the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 7/31/07


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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